

Reception Policies, Practices and Responses: Hungary Country Report

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RESPOND

Working Papers

Global Migration: Consequences and Responses

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Reception Policies, Practices and Responses

Hungary Country Report

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RESPOND: Multilevel Governance
of Migration and Beyond (770564)



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List of abbreviations

AMIF: Asylum, Migration and Integration Fund

CJEU: Court of Justice of the European Union

CPT: European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment

ECHR: European Convention on Human Rights

ECtHR: European Court of Human Rights

HHC: Hungarian Helsinki Committee

IAO: Immigration and Asylum Office (former OIN)

NDGAP: National Directorate-General for Aliens Policing (former IAO)

OIN: Office of Immigration and Nationality

PTSD: Post-traumatic Stress Disorder

UNHCR: Office of the United Nations High Commissioner for Refugees

About the project

RESPOND is a Horizon 2020 project which aims at studying the multilevel governance of migration in Europe and beyond. The consortium is formed of 14 partners from 11 source, transit and destination countries and is coordinated by Uppsala University in Sweden. The main aim of this Europe-wide project is to provide an in-depth understanding of the governance of recent mass migration at macro, meso and micro levels through cross-country comparative research and to critically analyse governance practices with the aim of enhancing the migration governance capacity and policy coherence of the EU, its member states and third countries.

RESPOND will study migration governance through a narrative which is constructed along five thematic fields: (1) Border management and security, (2) Refugee protection regimes, (3) Reception policies, (4) Integration policies, and (5) Conflicting Europeanization. Each thematic field is reflecting a juncture in the migration journey of refugees and designed to provide a holistic view of policies, their impacts and responses given by affected actors within.

In order to better focus on these themes, we divided our research question into work packages (WPs). The present report is concerned with the findings related to WP4, which focuses specifically on reception policies, practices and humanitarian responses to the current refugee crisis. Despite efforts to achieve harmonization (especially promoted by the 2016 CEAS and by the ENP), relevant differences exist in this field in the countries that are the object of research (Austria, Denmark, Germany, Greece, Hungary, Italy, Poland, Sweden, UK, Turkey and Lebanon). WP4 will map the policies and practices of reception and humanitarian responses of the afore-mentioned countries and migrants' perceptions, actions and reactions to policies and practices. The main objectives of WP4 are as follows:

- to develop a mapping of policies and practices of reception in the countries being researched;
- to develop a typology of these policies, practices and responses
- to assess the coherence of these policies and practices with respect to international and EU standard
- to study migrants' perceptions, actions and reactions to policies and practices
- to provide basic information in the area of reception for the development of all subsequent WPs.

The last point will be achieved through an additional comparative report that will be based on the data from individual country reports.

Executive summary

This report shows how the inhuman border protection and protection policies of the Hungarian government have triggered an adverse refugee reception environment. This is despite very few numbers of refugees currently in the country and even minimal number of people in the current reception system. As we have raised in the previous WP2 Hungary Border Management country report,¹ there are grave cases concerning the implementation of the EU directives affecting the delivery of refugee reception policies as well. Moreover, the hostile reception policies are not only affecting refugees, but also activities as well as the morale of the humanitarian workers in the country. Hence, the hostility towards refugees starts with the political discourse that retains perennial crisis narrative, hits border management practices, ripples into reception policy, and has an adverse impact on the more general delivery of humanitarianism in the country.

To this extent, this report finds the following.

- The Hungarian reception policy follows a centralised, top-down model regarding asylum and immigration policy. It involves both the Police and Armed Forces.
- Transit zones have essentially become the only reception facility. They also function as de facto detention centres.
- As of December 2018, there were only three people hosted at the existing reception facilities. There is only one designated facility for vulnerable asylum seekers, except the Children's Home in Fót. We cannot establish the number of asylum seekers in these facilities at the moment of writing.
- Effectively, the transit zones operate as reception facilities. We have discussed the situation in the transit zones in detail in WP2 Border Management country report for Hungary.
- The government is using the "crisis situation caused by mass migration" narrative in order to curb asylum seekers' rights.
- Asylum-seekers have no access to labour market.
- While there are food provisions in the reception centres, due to the "constant state of crisis caused by mass migration", travel allowances, reimbursement of educational expenses, financial support to facilitate potential return is now suspended.
- Even food provisions are dire. The food provisions in the transit zones are limited to canned food, and the asylum seekers have no access to diverse or healthy diet unless social workers provide them. The Hungarian government used starvation as a tactic to force the asylum-seekers leave the transit zone back to Serbia from August 2018 to May 2019.
- Sexual minorities have been verbally abused and/or threatened by security guards in one of the reception centres.

¹Available online at: <https://www.diva-portal.org/smash/get/diva2:1334555/FULLTEXT01.pdf>

- The activities of the humanitarian actors for service provision and intervene on behalf of the asylum-seekers are extremely limited. This also removes any possibility of an independent overview of the activities of the Hungarian officials.
- The Hungarian government has institutionalised its own Charity Council at the expense of leaving independent humanitarian agencies out. However, it is not very clear what kind of services these agencies provide in the transit zones.
- There is no “welcome culture” to talk about in the Hungarian case as the Hungarian government has successfully generated a supportive public audience for its reception policies.

Introduction

An unreceptive essence has qualified refugee reception policies worldwide. Hungary is no exception, but it is one extreme. The security narrative that substantiated its border management and protection policies have simply seeped into its reception policies as well. As this report will show, this has three crucial consequences. The first one is the dire straits that these policies have put the most vulnerable in their asylum procedures. The second is how Hungarian migration policies, including its reception policies as this report shows, have made the requirements of the European Union directives almost completely irrelevant in an EU country. This makes the country unaccountable internationally. The third one is how the unreceptive and welcoming character of these policies not only has placed the asylum-seeker and refugee rights in peril, but also curtailed the activities of the humanitarian actors' autonomy, authority, and eventually capacity to intervene. Having checks and balances in any political system forces governments to be accountable. Thereby, by removing this accountability mechanism from its reception policy implementation by merely punishing the humanitarian sector, the Hungarian government also became unaccountable domestically for its activities. Furthermore, amidst hindered accountability, it has also consolidated a public audience supportive of its inhuman treatment of asylum-seekers. This essentially suggests a form of discursive governance² of migration policies, including reception, widely resting on and reflecting from the political discourse of the Hungarian Prime Minister Viktor Orbán.

This report presents this case based on our reading of Hungarian language sources as well as interviews at meso- and micro-levels to see the implementation of reception policies. In order, we refer to policies and legal regulations of reception. Our findings show that there is no space for multi-level governance to reception policy, given the full scale centralisation and outsourcing of reception facilities and policy delivery to armed and security forces in Hungary. In order, we discuss practices of reception such as housing, education and labour market, and services and allowances. However, inevitably, our discussion always refers back to detention effective at transit zones. At the time of writing, the 2018 figures showed a mere number of 3 people in reception facilities beyond the transit zones. Furthermore, we note encounter with officials, civic actors, and the receiving society reflecting on micro-level interviews with refugees in Hungary. We support our findings from the micro-level with our reflections on the meso-level based on interviews with stakeholders and humanitarian actors. Finally, we state "welcome culture" of its lack thereof in the country, and present this as a case whereby neither international nor national accountability procedures could hold sway against the government propaganda based on a crisis of mass migration narrative. Relatedly, we show that the Hungarian government can simply appeal to public philosophy³ regarding migration and inculcate certain fears in the society but eventually nullify the global human rights norms and decapitate their implementation in a European Union country. We hope the findings of this report raise the European and international attention to human rights violations Hungary yet again as we have previously done with our border management practices report.

² Korkut et al. (2015).

³ See Korkut (2014).

Methodology and Sources

The report brings together a review of key political developments, policy instruments, and political narratives from Hungary after 2011, but more specifically from 2015 onward. In terms of sources, we use primary academic, policy, and political speech texts translated from Hungarian. The quotes and references to Hungarian language texts are our translations. The legal texts encompass acts, decrees and decisions in relation to reception and border management and migration controls. As border management policies and practices are organically interlinked with the reception policy – simply due to detention of asylum seekers in transit zones, our methodology inevitably approximates that of the former.

To discuss implementation, we have turned to reports from European Union, independent authorities as well as the interviews that we held in Hungary in 2018.

The report reflects on 20 interviews with refugees in Hungary. Most of them are from Afghanistan with a few from Syria and Iraq. However, as they mostly have gained their refugee status before 2015, their experiences reflect on the situation before the introduction of the widescale crisis of mass migration narrative by the Orbán government following the sudden increase in the number of arrivals in the summer of 2015.

We carried out 10 interviews with migration stakeholders including non-governmental organisation representatives as well as a lawyer, social workers, and activists. We also interviewed a source, who preferred to remain anonymous, from the Border Force department within the Police. We also include an interview with a source at IOM Budapest office. For fieldwork, we visited Hungary on two occasions in summer and winter during 2018. We could then also follow the impact of a series of migration-control-related legislations on the mood and operation of the non-public migration stakeholders.

We have received positive responses and initial invitations from the Csongrád County local government as well as the UNHCR Office in Budapest. However, both partners have declined the formal interview request later. For us, this showed how the atmosphere of fear has been hitting the country affecting all private, public, and international actors involved in migration governance.

Furthermore, we also visited a refugee camp on the Serbian border in Subotica in December 2018. Essentially, our goal for this visit was to understand how refugees gain access to the transit zones at the Hungarian-Serbian border. Below, we discuss our findings from this visit.

Finally, we brought together the findings from textual analysis with legal and policy developments and have embedded findings from interviews and ethnographic research tools where it suits in order to have a comprehensive analysis of reception policy practices in Hungary between 2011 and 2017.

Policies and Legal Regulations of Reception: Missing Multi-level Perspective

The Hungarian reception policy follows a centralised, top-down model regarding asylum and immigration policy. It is sanctioned and organised at the national level featuring no municipal or regional characteristics. As of July 2019, the National Directorate-General for Aliens

Policing (NDGAP), the legal successor of the former Immigration and Asylum Office (IAO), the former Office of Immigration and Nationality (OIN), is responsible for all matters of immigration and asylum in Hungary including reception. Reception centres are run by NDGAP in cooperation with and with the supplementary services of NGOs.⁴ The supervisory body of NDGAP is the Ministry of Interior Affairs. The institutional structure of NDGAP comprises a head office (together with the Pest county directorate) in Budapest, and regional directorates in Pécs, Szeged, Debrecen, Miskolc, Székesfehérvár and Győr. The developments in July 2019 have put more at stake beyond a simple name change. The Government has now effectively incorporated asylum authority under the authority of the Police and the remit of the Act XXXIV of 1994 on the Police and the Act XLII of 2015 on the Service Status of Professional Members of Law Enforcement Agencies.⁵ It is important to note that both the Police and the Armed Forces have already been involved into reception policy especially concerning the so-called “crisis situation caused by mass migration”.⁶ This, however, means standard procedure, as, according to the Government, Hungary has constantly been in “crisis situation caused by mass migration” since 2015.

National Policies and Regulations

The rules of reception are set forth by the Asylum Act (Act LXXX of 2007) and its corresponding Government Decree (301/2007 (XI. 9.)) on the implementation of the Act. The Asylum Act has gone through several amendments in the past four-year period, significantly deteriorating the situation of asylum seekers as well as the condition of reception. One of the most controversial issues is the establishment of transit zones along the Hungarian-Serbian border fence. Transit zones have essentially become the only reception facilities in the country over the past couple of years, and they function as *de-facto* detention centres (see below).

Practices of Reception

As of March 2018, irregular migrants may file asylum application in the transit zones only, and they cannot leave these zones throughout the entire asylum procedure. The rule applies to everyone except unaccompanied minors below 14; they are accommodated at Fót Children’s Home.⁷ The Hungarian Helsinki Committee (HHC) had to step in and request for interim measures by the ECtHR to prevent the transfer of a pregnant woman and unaccompanied minors from open reception facilities to the transit zones.⁸ Thus, the only facilities that effectively receive asylum seekers are the transit zones at Röszke and Tompa, which serve as *de facto* detention centres. However, the conditions and practices in reception centres differ from the transit zones *de jure*. This necessitates a dual focus when discussing housing, services and allowances, and access to labour market and education for asylum seekers. It is notable that since the establishment of transit zones, the number of residents in reception

⁴ See AIDA (2018) p.73.

⁵ See Gov. Decree No. 126/2019 (V. 30.).

⁶ See WP2 Report on border control.

⁷ For detailed information on the situation and treatment of asylum seeking children in Hungary see HHC (2017b): Best Interest Out of Sight - The Treatment of Asylum Seeking Children in Hungary • 2017, Available online at:

<https://www.helsinki.hu/wp-content/uploads/Best-interest-out-of-sight.pdf>.

⁸ See AIDA (2018) p. 72.

centres has decreased drastically. This is not to say that the number of people wishing to enter Hungary has gradually decreased. On the one hand, the Government has systematically limited access to the territory, and simultaneously shifted the place of reception from reception centres to the transit zone, on the other.

Housing

Reception centres

As of December 2018, there was only one person in Balassagyarmat, and two in Vámoszabadi – the two still operating reception centres in Hungary.⁹ Prior to March 2018, several reception facilities had been operation: Debrecen, once the biggest reception centre in the country, was shut down in October 2015;¹⁰ Nagyfa was shut down August 2016; Bicske in December 2016; Körmend has been suspended since May 2017; and Kiskunhalas was shut down in July 2018. Kiskunhalas was a former immigration detention centre, where asylum seekers were accommodated in shipping containers. The Körmend centre was effectively a camp comprising military tents. When open, the centre used to run throughout the year, irrespective of the exceptionally cold Hungarian winter. Only single men were placed in there in “extremely dire and inhuman conditions”.¹¹ One of our interviewees who had been placed in Körmend described the place as “extremely terrifying”.¹² Another interviewee said that there were always fights in Debrecen reception centre during his stay, the food was bad, and overall it was “so nervous place”.¹³ The still functioning centres, Balassagyarmat and Vámoszabadi would have a capacity of 140 and 210 places for asylum seekers respectively.¹⁴ According to Asylum Information Database, the building in Vámoszabadi used to serve as a barrack for Soviet soldiers stationed in Hungary.¹⁵ The Government announced its plan to shut down Fót Children’s Home in 2016. At the time of writing, however, the Home is still operating.

Asylum seekers, except those placed in the transit zones or detained elsewhere, have free movement in the country. In case they wish to leave the reception centre for over 24 hours, they need to ask permission from NDGAP in writing. Due to the state of crisis, asylum seekers shall not move to private address any longer.¹⁶

The physical specification of community shelters in general, such as reception centres, are set out in Gov. Decree No 239/2009 (X. 20.). Although regular cleaning is arranged, and the number of showers, toilets is satisfactory in all reception centres, the hygienic level raised some concerns at Vámoszabadi in 2017. The rooms are shared and families were otherwise accommodated in family rooms. The sleeping quarter doors were not always lockable, and the security guards were armed. The centres had computer and community rooms as well as sport fields. Asylum seekers could cook for themselves.¹⁷

⁹ See AIDA (2018) p.67. Available at: <https://www.asylumineurope.org/reports/country/hungary>.

¹⁰ See AIDA (2015) p. 11,21.

¹¹ See AIDA (2018) p. 73.

¹² See micro interview HUN2.

¹³ Interview code: HUN9.

¹⁴ See AIDA (2018) p. 72.

¹⁵ See AIDA (2018) p. 73.

¹⁶ See AIDA (2018) p.70.

¹⁷ See AIDA (2018) pp. 74-75.

There is no designated reception facility for vulnerable asylum seekers except the Fót Children's Home for unaccompanied children: "Single women, female-headed families, and victims of torture and rape, as well as gay, lesbian or transgender asylum seekers are accommodated in the same facilities as others, with no specific attention, while there are no protected corridors or houses".¹⁸ According to HHC, single women, as well as transgender asylum seekers complained about regular harassment by fellow asylum seekers on several occasions in 2016 and 2017, without the complaints being followed up by IAO.¹⁹ The age assessment of children is inadequate and malfunctioning,²⁰ and there is no differentiation between nationalities as to their accommodation and placement.²¹

Transit zones

The vast majority of asylum seekers, a total of 588 people, were placed in transit zones in 2018. The overall capacity of the zone is 450 persons at Röszke, and 250 at Tompa.²² One of the many reasons behind the infringement procedure launched against Hungary in December 2015 was the incompatibility of transit zones with the EU law.²³ Transit zones comprise shipping containers that both serve as accommodation for asylum seekers and where their asylum application is processed.²⁴ While awaiting the outcome of their case, asylum seekers cannot leave the zones except its gate towards Serbia. This would however be equivalent to the withdrawal of their application. Unfortunately, during our field visit, it was not possible to gain access to the zones. Moreover, in November 2018, the UN Working Group on Arbitrary Detention were also denied access to the zones.²⁵ This practice of the NDGAP may change following a recent (October 2019) ECtHR decision (*Szurovecz v. Hungary*) in which the Court ruled that denying access to reception centres to the media constituted a breach of the right to freedom of expression, as the situation in reception centres, especially the rights of asylum seekers, is a matter of considerable public interest.²⁶

Notwithstanding the situation in Hungary, our request to visit the Subotica reception centre on the Serbian side was accepted by the Serbian authorities. The centre is the final destination for asylum seekers planning to enter the Hungarian transit zones. During our visit in December 2018, we found that transit zones are not open for everyone save for a certain group of people. There is a preliminary, extra-territorial filtering process in place, seemingly, with the informal consent of the Serbian authorities.²⁷ This practice arguably amounts to a serious breach of the right to seek asylum, and thus incompatible with the Charter of Fundamental Rights of the EU, the Asylum Procedure and the Reception Conditions Directive.

Transit zones are surrounded by barbed wire fence, and guarded and patrolled by armed military and/or police personnel. Asylum seekers have no privacy, there are cameras in every

¹⁸ See AIDA (2018) p. 81.

¹⁹ See AIDA (2018) p. 81.

²⁰ See WP1 pp. 48-51; HHC (2017b; 2018).

²¹ See AIDA (2018) p. 82.

²² See AIDA (2018) p. 84.

²³ See Commission: https://ec.europa.eu/commission/presscorner/detail/en/IP_15_6228.

²⁴ See Gyollai and Korkut, 2019.

²⁵ Office of the United Nations High Commissioner for Human Rights (OHCHR), 'UN human rights experts suspend Hungary visit after access denied' Available online at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23879&LangID=E>.

²⁶ The particular reception centre in Debrecen Mr. Szurovecz requested access to since has been shut down.

²⁷ See Ashraf, Korkut and Gyollai (2020) [Forthcoming]; Korkut and Gyollai (2018).

corner. Besides sleeping containers, there are dining-, community-, and shower containers as well as a shared prayer room. The containers are placed in a square with a courtyard in the middle that also serves as a playground for children.²⁸ Although in December 2018 we had no chance to interview asylum seekers detained inside the facility or a single member of staff from the IAO, we interviewed a social worker who regularly visit the zones. According to our interviewee, there are neither trees nor any type of flora in transit zones, and children effectively play on a crushed-stone layer. The space is extremely limited, there is no room for kids to run around.²⁹ The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) found the design of the zones “far too carceral”, despite families and children, including unaccompanied children were being forced to stay in these zones.³⁰ Except for unaccompanied minors (children below 14), no other vulnerable groups are excluded from detention. The zones are divided into four sectors: one for single men, one for unaccompanied children, one for families, and one for those quarantined for health reasons. People can leave their designated sector only with the permission and escorted by armed guards. Single women and unaccompanied females are usually held together with families (i.e. together with males), there are no women-only places in the zones.³¹ Families are detained here for an average of 23 days,³² although our interviewee noted there were families who had to stay in for several months. At that time, she mentioned pregnant women, a wheelchair person, as well as an autistic child were among the detainees.³³ Furthermore, the Hungarian government deliberately starved asylum seekers upon rejection of their application (see below).

The ECtHR, following the intervention of the Hungarian Helsinki Committee (HHC), has issued interim measures on several occasions in this regard. Surprisingly, the major blow to asylum seekers detained in the zones (and to human rights advocates supporting them) did not come from the Government, but the ECtHR itself. Irrespective of the circumstances described above, as well as a plethora of criticism about the living conditions in the transit zones by distinguished organisations such as, inter alia, Amnesty International,³⁴ EASO,³⁵ UNHCR³⁶ and HHC,³⁷ according to the position of the ECtHR Grand Chamber, placing asylum seekers in the transit zone does not amount to the deprivation of their liberty.

Ilias and Ahmed v. Hungary

On 14 March 2017, in *Ilias and Ahmed v. Hungary* (no. 47287/15) the ECtHR found that the confinement of two Bangladeshi nationals (who transited through Greece and Serbia) in the transit zones for 23 days constituted deprivation of their liberty.³⁸ Following Hungary’s appeal

²⁸ See AIDA (2018) pp. 94-96.

²⁹ Interview code: HUNME2.

³⁰ Report to the Hungarian Government on the visit to Hungary carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), p.4. Available at: <http://www.refworld.org/docid/5ba213d17.html>.

³¹ See HHC (2018) pp. 8-9.

³² See AIDA (2018) pp. 89-91.

³³ Interview code: HUNME2.

³⁴ See Amnesty: <https://www.amnesty.org/download/Documents/EUR2748642016ENGLISH.PDF>.

³⁵ See EASO: <http://www.europeanmigrationlaw.eu/documents/EASO-annual-report-2018.pdf>.

³⁶ See UNHCR: <https://www.unhcr.org/news/press/2017/9/59b809d24/unhcr-chief-visits-hungary-calls-greater-access-asylum-end-detention-solidarity.html>.

³⁷ See HHC: <https://www.helsinki.hu/wp-content/uploads/One-year-after-2019.pdf>.

³⁸ The case also relates to the violation of art 3 and 13 of the Convention, we, however, now discuss the aspects of the judgement that relates to art 5 only.

against the judgement, the case was referred to the Grand Chamber of the Court. In support of the Government, third-party interventions were filed by the Russian Federation, Bulgaria, Poland, and, in support of the applicants, by UNHCR, the Dutch Council for Refugees, the International Commission of Jurists and the European Commission on Refugees and Exiles and, separately, from five Italian scholars. The Grand Chamber delivered its judgement on 21 November 2019, in which it overruled the Chamber's earlier decision and maintained that the applicants were not deprived of their liberty in the meaning of Art. 5 of the Convention. The Grand Chamber effectively based its decision on the following main circumstances: a) to enter the transit zone and request for asylum was purely the applicants' own "choice"; b) the duration of time spent in the transit zone should not be considered in a decisive manner when deciding whether Art 5 is applicable or not. In fact, given the circumstances, the 23-day period was relatively short; c) the applicants feared to return Serbia, even though that fear was real, only due to the possibility of their chain-refoulement, and not because of a direct threat to their life or health; d) the applicants' have had a realistic opportunity to walk through the gate (instead of being forced to take a flight for example) and leave the transit zone towards Serbia.

This reasoning is problematic for several reasons; in their dissent opinion,³⁹ Judge Bianku and Vučinić explain why: a) regarding "choices", the judges, first of all, point out that the case-law cited by the majority of judges "has nothing to do with asylum-seekers", as the cases cited in the assessment all refer to regular circumstances of confinement. More significantly, the term "choice" in this context is not applicable. In fact, the applicants, and asylum seekers in general, had no other choice but to opt for entering the zones or otherwise to suffer from treatment contrary to Art 3 or 2. To support this view concerning the choice of crossing borders, the judges stresses: "we can see from European history that such "choices" have cost hundreds of people their lives". As to the b) duration, the judges point out that in similar cases the Court has earlier considered that periods as short as of nine hours (in *Nolan and K v. Russia*) constituted detention. Regarding c) the applicants' ground of fear to return Serbia, the judges underline that the majority opinion, wrongly, implies that any violation of art 5 could only be deemed in conjunction with that of art 3. Moreover, to decide whether the applicants' would have faced a real risk of death or torture upon return to Serbia could only be safely declared following a detailed examination of the applicants' personal circumstances respectively, the examination of which the Hungarian authorities failed to conduct. Adding to this point, we believe that the difference between the fear of being subjected to direct risk of death or torture and the fear of being returned to a country where one would face direct risk of death or torture is insignificant if not imaginary. Finally, d) the interpretation of the passage cited from *Amur* by the majority is totally "erroneous". Concerning the question whether an individual has a real possibility to leave a country (the transit zone in the present case), what is at stake is not merely the practical and physical possibility to do so, e.g. the means of transport they actually have access to. The relevant question is whether there is, in fact, a country which inclined to take them in, and whether, upon departure, the individuals would be exposed to the risk of

³⁹https://www.refworld.org/cases,ECHR,5dd6b4774.html?_cf_chl_jschl_tk_=71e65f9ec1b5095e0d8a9a858f9f36c7530694c9-1580989553-0-AfimnpDNMtlLKygviQniO0f5BrskQbEyGC0fQS92fZpSaN5Ga3DI4K73dNyS5IYc5G7VaNi77E5Qwi4nSF35ZoJtSlggHHNBfTmKR0iHISQz2HYqeJmP0UIC1AoL0879kPKDlQGrrFS0oQelG_VWzsDIHhotlQj0iIsaHDECNV2EH0YmuHaTCXS7a6jgLR3yKwECJiW6xmiIVOpeNr2ssooo4meTXDXUbXJwCazdEimUK-yP_6qsuVU8FoP-4Cdu9w0YgK3MXxDaAH0rWHCH9H3Bkh_N-Q34C2T1-QYnFolo

treatment contrary to art 3. However, not only have the Hungarian authorities, again, failed to assess such risk, but the Grand Chamber accepted that the applicants had no legal basis to enter Serbia, hence their return would have resulted in a situation in which they could have been faced treatment contrary to art 3.

One could argue that the decision is concerning for multiple reasons: disregarding and/or misinterpreting a long-established line of case-law will arguably hinder adjudication processes of the Court in future cases concerning Art. 5 of the Convention. Such controversial decision has the potential to jeopardise the CJEU procedure against Hungary concerning the detention of asylum seekers in the transit zones as well as future similar cases. Most significantly, it may further deteriorate the situation of individuals detained in the zones.

Early access to Education and Labour Market

Reception centres

As of March 2017, due to “crisis situation caused by mass migration”, asylum seekers have no access to labour market. As HHC notes, this is clearly at variance with the Reception Conditions Directive.⁴⁰ Prior to that, those accommodated in reception centres had the opportunity to work within the centre without work permit. Nine months after submitting their application, they were also entitled to work outside the centre under the general conditions that apply to third country nationals. Such work permits were issued by local employment authorities for one year and extended upon request.⁴¹ However, one of our micro-level interviewees mentioned that without residence permit, he was unable to apply for jobs or language courses outside the centre.⁴² According to one of our meso-level interviewees, whether asylum seekers receive the necessary documents (ID, work permit) entirely depends on the goodwill of social workers employed in the centre. Asylum seekers were many times released without providing documents altogether. If lucky, they may be able to find accommodation in homeless shelters.⁴³ Moreover, as of June 2016, the maximum length of stay in the centre upon recognition has been shortened to 30 days, which is an extremely short notice to arrange for accommodation and employment. We have interviewed the representative of Menedék Association, the major and first point of contact between asylum seekers and potential employers. The representative explained that, due to the increasing labour shortage in Hungary, they received numerous recruitment requests from employers in the past few years.⁴⁴ Without the assistance of Menedék it is, however, difficult to find employment as a refugee. According to one of the asylum seekers we interviewed, people are “not willing” to employ refugees.⁴⁵

Up until the age of 16, asylum seeker children are entitled to public education under the same condition as locals.⁴⁶ As HHC notes, in practice it depends on the availability of places in schools and “the willingness of guardians and the Children’s Home staff to ensure the speedy

⁴⁰ See AIDA (2018), p. 76.

⁴¹ See AIDA (2018) p. 76.

⁴² Interview code HUN2.; AIDA (2018) p. 107.

⁴³ Interview code: HUNME6.

⁴⁴ Interview code: HUNME3.

⁴⁵ Interview code: HUN16.

⁴⁶ Education is compulsory, in general, up until the age of 16.

enrolment of children”.⁴⁷ In the past few years, 2018 was the first when each and every child in Fót Children’s Home was enrolled in and later attended schools. Given the specific needs of asylum seeker children, however, there were very few institutions that would accept them and would be able to provide appropriate education. Menedék offered alternative forms of education for asylum seeker children that were not enrolled. Both at Vámoszabadi and Balassagyarmat, asylum seekers faced serious obstacles towards having their children enrolled in some form of public education, despite the latter having a school in its premises.⁴⁸

Asylum seeker adults have access to education upon having granted international protection only. Language classes are provided by NGOs in reception centres on ad hoc basis.⁴⁹ One of our micro-level interviewees mentioned that since the Government’s attitude changed towards NGOs (see below), they stopped providing language courses. Asylum seekers have to find alternative solutions and cover the expenses of the classes on their own.⁵⁰

Transit zones

Asylum seekers whose asylum case is processed in the transit zone have never had access to the labour market neither inside nor outside the zones.⁵¹

Prior to September 2017, no education was available for asylum seekers in transit zones. In Tompa transit zone it has since been organised by the Szeged Educational District and by the Kiskőrös Educational District in Rösztke transit zone. Based on unaccompanied children’s account, who have participated in such educational programmes, HHC found that these programmes neither followed a particular curriculum, nor do they met the standard required for effective education.⁵² Classes were not “age-appropriate and teachers often lacked the necessary linguistic skills” to effectively perform their role. Handouts were merely focused on the development of basic skills of Hungarian language.⁵³

Services and Allowances

Reception centres

In reception centres, apart from health care, asylum seekers receive three meals per day as well as hygienic items (or equivalent amount of financial allowances). The amount of the weekly allowance (hygienic items and food voucher) is 6,650 HUF (21.36 EUR) for single men and children above the age of 3, and 7,000 HUF (22.48 EUR) for pregnant women and children below the age of 3.⁵⁴ Due to the constant ‘state of crisis caused by mass migration’,⁵⁵ travel allowances, reimbursement of educational expenses, financial support to facilitate potential

⁴⁷ See AIDA (2018) p. 76.

⁴⁸ See AIDA (2018) pp. 76-77.

⁴⁹ See AIDA (2018) p. 77.

⁵⁰ Interview code: HUN12.

⁵¹ See WP1 report - ‘border procedure’ p. 31.

⁵² See HHC (2018) p.12.

⁵³ See AIDA (2018) p. 77.

⁵⁴ See AIDA (2018) pp. 68-69.

⁵⁵ See WP2 report on border control.

return are now suspended. Asylum seekers are not entitled to pocket money since April 2016.⁵⁶

Prior to 2018, social workers used to organise community activities for asylum seekers, such as language classes, film club, drawing-, music-, sport-, and cooking activities. With the freezing of AMIF funds, however, many social workers have lost their job. From then on, only NGOs organised such activities in reception centres. SOS Children's Villages as well as Hungarian Red Cross used to organise programmes for asylum seeking children inside and outside the centre. The Menedék Association for Migrants provides legal counselling regarding employment and accommodation (property rental upon acceptance) matters. Not one of our micro-level interviewees mentioned that it was Menedék who found them a job.⁵⁷ To meet the basic needs of asylum seekers in reception, private donations and volunteers have also played an important role.⁵⁸ This was corroborated by our meso-level interviewees.⁵⁹

Concerning healthcare services, asylum seekers are entitled to general and emergency healthcare services free of charge, and other healthcare services upon referral by general practitioners.⁶⁰ Asylum seekers in reception centres have access to medical consultation, though the lack of interpretation often poses serious obstacles for communication.⁶¹ This was corroborated by our micro-level interview participants.⁶² Although the entitlement of people in vulnerable situation should be more inclusive than it is in general,⁶³ in practice, there is no appropriate guideline to assess vulnerabilities in reception centres, nor in the transit zones (see below).⁶⁴ Both SOS Children's Villages and, more significantly, Cordelia Foundation provided psycho-social services in reception centres. The experts the Foundation are the only practitioners with necessary professional qualification and experience to provide adequate assistance for torture survivors, and people with post-traumatic stress disorder (PTSD). As HHC notes, however, due to lack of sources the functioning of the Foundation is at constant risk.⁶⁵ When interviewing former asylum seekers who had been accommodated in these reception centres, they showed appreciation and were grateful for the assistance and care provided by Cordelia.⁶⁶

Prior to the restriction (see above), asylum seekers waiting for the outcome of their case in private accommodation may have registered with their local GP. On several occasions, nonetheless, GPs refused the registration claiming that asylum seekers did not hold national insurance numbers, even though the humanitarian residence card was satisfactory and should have been accepted for registration.⁶⁷

Concerning information provision, the rights and obligations of asylum seekers regarding the asylum procedure is communicated to them both orally and in writing in a language they understand. Conversely, the information regarding their right and obligation in reception

⁵⁶ See AIDA (2018) pp. 68-69.

⁵⁷ Interview code: HUN8, HUN10; HUN16.

⁵⁸ See Aida (2018) p. 75.

⁵⁹ Interview code: HUNME7.

⁶⁰ See Art 26 of Asylum Act and art 26-28 of Asylum Decree.

⁶¹ See AIDA (2018) p.79.

⁶² Interview code: HUN10, HUN18.

⁶³ Art 32-34 of Asylum Decree.

⁶⁴ See AIDA (2018) p. 79; WP1 report on legal framework; HHC (2018).

⁶⁵ See AIDA (2018) p.79.

⁶⁶ Interview code: HUN10.

⁶⁷ See AIDA (2018) p. 80.

centres, the house rules were only provided in English and in Hungarian, posing a serious challenge to those who do not understand either one of these languages.⁶⁸ This was corroborated when conducting our micro-level interviewees.⁶⁹

Transit zones

There is ample evidence of how conditions in detention centres and reception facilities affect and deteriorate the mental health of asylum seekers in general.⁷⁰ Various forms of post-migratory stressors, such as the confinement itself, abuse by staff and isolation may increase asylum seekers' already existing mental health issues resulting from previous exposure to traumatic events and/or torture. Prolonged detention increases the severity of depressive symptoms and may eventually result in cognitive deficits, psychotic symptoms and pervasive distrust.⁷¹ Uncertainty about the future contributes to ongoing depression, PTSD and other mental health-related issues, such as persistent sadness, hopelessness, intrusive memories, anger attacks and psychological reactivity.⁷² Moreover, it has been established that the duration of detention correlates with the emergence of new mental health problems.⁷³ Concerning the long-term mental health consequences of prolonged detention, asylum seekers may experience serious personal and interpersonal difficulties in the host community upon acceptance.⁷⁴ Earlier research conducted in similar circumstances in Australia found that asylum seeker parents are likely to feel that they have failed to perform the regular parental roles, and are no longer able to offer comfort, emotional support to their children.⁷⁵ The inability to protect their children from further humiliation, as well as from their own hopelessness, both contribute to their depression. Parental mental problem is often the source of the children's trauma and anxiety, as such it may as well have serious impact on their social and emotional development. It creates a vicious circle, which clearly contributes to the re-traumatisation of asylum seekers. Both parents and children were diagnosed with symptoms of depression and suicidality in detention circumstances, and children sometimes had to witness their own parents' suicide attempts. UK research have corroborated the above findings and observed similar changes in the child-parent relationship patterns in detention centres. Symptoms of depression and anxiety, sleeping problems, somatic complaints, behavioural difficulties and further emotional problems were regular among children.⁷⁶

Irrespective of the above, the Cordelia Foundation, similar to other NGOs who would provide crucial services to asylum seekers, has not been given access to transit zones.⁷⁷ This information was corroborated by several sources during our field visit to Hungary. Hence the screening and treatment of asylum seekers' mental health is insufficient, if not lacking altogether.⁷⁸ HHC is aware of cases of suicide attempts in the transit zones, including a mother from an Afghan family. Prior to her attempt, the mother was provided with some psychological

⁶⁸ See (AIDA) p. 81.

⁶⁹ Interview code: HUN9.

⁷⁰ For summary see Robjant *et al.* (2009).

⁷¹ See Sultan and O'Sullivan (2001); Fazel and Silove (2006).

⁷² See Steel *et al.* (2006); Newman *et al.* (2013); Bosworth (2016).

⁷³ See Green and Eager (2010).

⁷⁴ See Coffey *et al.* (2010).

⁷⁵ See Steel *et al.* (2004); Mares *et al.* (2002).

⁷⁶ See Crawley and Lester (2005); Lorek *et al.* (2009).

⁷⁷ HHC (2018) p.10.

⁷⁸ Aee AIDA (2018) p. 98.

service though without interpretation.⁷⁹ In order to see a doctor, consult their lawyer, or being interviewed, asylum seekers in the transit zones, including women and children, had to be escorted by armed police.⁸⁰ One of our micro-level interviewees explained how intimidating is the constant presence of the police:

“I mean, this all impression makes you scared, because when you're going for the interviews, you pass policemen around this room and when you enter that room, I mean, there used to be a policeman again, waiting for you here to come out. So, I mean, you enter that all office when you're scared. I mean, this alone makes you not... I mean, I don't know how to say it, even. Like, it makes you not to focus on what you're going to say. You're already scared of what's going to happen to you.”⁸¹

The capacity of medical units in the zones capable is 10 persons respectively. While general practitioner is available daily, children's doctor is only available twice a week. Whenever specialist care is necessary, asylum seekers are taken to medical institutions in the vicinity of the zones in prisoner transport vans. As HHC notes, “when pregnant women have to be taken for a medical examination, 2 or 3 policemen escort them to a nearby hospital” who then, at least in one reported occasion, were staying in the examining room during prenatal medical check-up.⁸² The woman was handcuffed during transport.⁸³ This information was corroborated by different sources during our field visit in Hungary. Irrespective of the ECtHR's intervention, no interpretation is provided for asylum seekers during the medical examination. As a general rule, asylum seekers receive painkillers for any type of health issue.⁸⁴

The assessment of vulnerable groups in special need, including LGBTI groups, their appropriate treatment, accommodation, and the training of staff in this regard is lacking altogether. No adequate support is provided for victims of domestic-, sexual- or gender based violence, of torture and for traumatised people.⁸⁵ In order to remove vulnerable people from the zones, among 15 requests, HHC obtained interim measure for a family of six with a 10-year-old child in a wheelchair.⁸⁶

According to one of our meso-level interviewees, asylum seekers mainly received canned food, they had no access to a diverse or healthy diet unless social workers provided them with some vegetable and fruit.⁸⁷ Moreover, as mentioned earlier, deprivation of food for asylum seekers placed in transit zones has become standard procedure in transit zones. Accordingly, the UNHCR expressed serious concerns about this “deeply shocking” practice of the authorities.⁸⁸ In the case reported by the UNHCR, two Afghani families were deprived of food for five days, who were then given the opportunity to either being flown back to Kabul on a

⁷⁹ See AIDA (2018) p. 71.

⁸⁰ See AIDA (2018) pp. 90-96.

⁸¹ Interview code: HUN12

⁸² See AIDA (2018) p. 97.

⁸³ See HHC (2018) p. 11.

⁸⁴ See AIDA (2018) p. 97.

⁸⁵ See HHC (2018).

⁸⁶ See AIDA (2018) p. 99.

⁸⁷ Interview code: HUNME2.

⁸⁸ See UNHCR ‘Hungary’s coerced removal of Afghan families deeply shocking’ Available online at:

<https://www.unhcr.org/news/press/2019/5/5cd3167a4/hungarys-coerced-removal-afghan-families-deeply-shocking.html>.

flight organised by Frontex or leaving the transit zone towards Serbia. The families opted for the latter option. Given the circumstances, the UNHCR called on Frontex to refrain from providing support to IAO in executing return decisions. According to our source from the transit zones, when the practice commenced, several IAO staff members denied to announce the order due to its unprecedented cruelty. Information on the planned measure was, fortunately, leaked, so that the effected asylum seekers managed to save some of their scheduled food portions.⁸⁹ Between August 2018 and May 2019, the overall number of such starvation cases reached 13 affecting 21 individuals.⁹⁰ Since deprivation of food for asylum seekers detained in the transit zones is a serious breach of both the Return Directive and the Charter of Fundamental Rights of the European Union, the Commission opened a new infringement procedure against Hungary in July 2019,⁹¹ and ultimately referred the case to the CJEU in October 2019.⁹² According to Lajos Kósa, a member of the Government: “the ten million tourists who enter Hungary are not fed by the state either, it cannot be however said that they would be starved.”⁹³

Encounter with officials, civic actors and the receiving society

Officials

According to HHC, asylum seekers, including gay individuals, have been verbally abused and/or threatened by security guards in one of the reception centres.⁹⁴ When transgender people were abused by fellow residents in Vámosszabadi reception centre, the authorities offered no resolution of the situation.⁹⁵ Since there has been no adequate conflict resolution mechanism in place in general, furthermore the English language skills of security personnel has been falling short of the necessary minimum, conflict management in the centre has been far from appropriate.⁹⁶ Research in UK detention facilities have demonstrated that poor communication with the staff within the centres make asylum seekers feel depressed and vulnerable,⁹⁷ and imply incidents of abuse.

Our micro-level interviewees complained about the majority of staff in reception centres not speaking the English language and being “unfriendly” or only some of them being “friendly”.⁹⁸ Being escorted while handcuffed, our interviewees found the practice “shocking” and felt being

⁸⁹ Interview code: HUNME4.

⁹⁰ See Council of Europe report on ‘Pushback policies and practice in Council of Europe member States’ Available online at: <https://reliefweb.int/report/world/pushback-policies-and-practice-council-europe-member-states>.

⁹¹ See European Commission ‘Commission takes Hungary to Court for criminalising activities in support of asylum seekers and opens new infringement for non-provision of food in transit zones’ Brussels, 25 July 2019, Available online at: https://ec.europa.eu/commission/presscorner/detail/en/IP_19_4260.

⁹² See Commission: https://ec.europa.eu/commission/presscorner/detail/en/IP_19_5994.

⁹³ See 24.hu ‘Kósa: Nincs éheztetés a tranzitónákban, a turistáknak sem ad enni a magyar állam. Available online at: <https://24.hu/belfold/2019/11/18/tranzitzona-eheztes-fogvatartas-kosa-lajos-szel-bernadett-honvedelmi-bizottsag/>.

⁹⁴ See HHC (2018) p. 19.; AIDA (2018) p. 75

⁹⁵ See HHC (2018) p. 19.

⁹⁶ See AIDA (2018) p. 75.

⁹⁷ See Bosworth and Kellezi (2015); Bosworth (2016).

⁹⁸ Interview code HUN4; HUN9.

treated like criminals.⁹⁹ One of our interviewees said that, during his stay in Debrecen reception centre the security staff, although “nice people”, said that they were not allowed to talk to the residents, not even to give a handshake, and never did because of the CCTV.¹⁰⁰ Another interviewee mentioned that in Debrecen, when his fingerprints were to be taken, he was escorted with a rein or leash attached to his handcuff; he felt he was treated “like a dog”. The interviewee also said that he was offered by staff to be transferred from the closed centre to an open one if he paid 1.000 EUR.¹⁰¹ The practice of escorting people while handcuffed on a leash was as well confirmed by one of our meso-level interviewees even concerning pregnant women.¹⁰²

Two refugee participants of our migration governance network meeting held in Budapest said that they were falsely diagnosed and treated by healthcare professionals in Hungary:

“I was playing football and I broke my hand. I was in the hospital, standing in the queue, waiting for the doctor to check me. I was in pain, it was really an emergency, but the doctor said no, it wasn’t.”¹⁰³

“I was injured on my hand, my foot, it was four or five hours of night walking from Serbia to Hungary. I almost passed out, even they called the ambulance (...) Ambulance arrived and they thought, though I could see, my eyes were open, but couldn’t speak or move, no emergency treatment needed.”¹⁰⁴

Our micro level interviewees mention use of excessive force by the police at the border and during the asylum process:

“Eventually we were caught by the police in the forest in Hungary. They beat up the young ones. They didn’t hurt us because I went into the water with my son.”¹⁰⁵

“...the police came and was like yeah what are you doing here and I say yeah I’m a refugee so they kick my bag so like my shoes and stuff fall and then they was laughing to us and I was like really feel bad that time.”¹⁰⁶

These accounts show that our interviewees’ encounter with the authorities did not always meet the minimum standard of an adequate reception policy. Excessive force by the police is especially unacceptable, given the vulnerable situation of asylum seekers.

Civil society actors

Civil society organisations have been under attack by the Hungarian Government. The legislative offensive started with Act LXXVI of 2017 that obliged foreign-funded NGOs to

⁹⁹ Interview code: HUN4

¹⁰⁰ Interview code: HUN9.

¹⁰¹ Interview code: HUN7.

¹⁰² Interview code: HUNME8.

¹⁰³ MGN meeting.

¹⁰⁴ MGN meeting.

¹⁰⁵ Interview code: HUN.

¹⁰⁶ Interview code: HUN14.

register with the authorities for reasons of transparency in June 2017.¹⁰⁷ The Venice Commission condemned the new law for its clear interference with the freedom of association and expression, the right to privacy, and the prohibition of discrimination.¹⁰⁸ As per the Venice Commission's Opinion, the European Commission launched an infringement procedure against Hungary due to the incompatibility of the Act with the Treaty on the Functioning of the European Union and the Charter of Fundamental Rights of the European Union in July 2017.¹⁰⁹ Later in December, the case was referred to the Court of Justice of the European Union (CJEU).¹¹⁰ Shortly after the infringement procedure in July 2017, the Government introduced the so-called "Stop Soros" legislative package in May 2018. The legislative package comprises, *inter alia*, amendments to the Criminal Code that effectively criminalised NGOs, civil society actors providing humanitarian support for asylum seekers.¹¹¹ Since the package constituted a further breach of the right of freedom of association and expression, it was followed by criticism of the Venice Commission.¹¹² Hence, the package resulted in yet another infringement procedure due to its incompatibility of the Reception Conditions, the Asylum Procedures Directive, the Treaty on the Functioning of the EU, the Free Movement Directive and the EU Charter of Fundamental Rights. In conjunction with the new infringement procedure, in July 2018 the Commission referred the earlier infringement procedure concerning the transit zones (December 2015) to the CJEU. This was due to a newly introduced provision provided for the indefinite detention of asylum seekers in the zones constituting a serious breach of the Reception Conditions Directive.¹¹³ The response of the Government came soon enough: in August 2018, it introduced the 'special immigration tax', i.e. the imposition of 25% tax on civil society organisations whose activity involves the support of migrants/asylum seekers.¹¹⁴ The respective opinion of the Venice Commission was released in December 2018.¹¹⁵ The latest development (?) in the legislative debate between the EU and the Hungarian Government concerning civil society organisations took place in July 2019: in parallel with opening new infringement procedure due to the deprivation of food for asylum seekers in the transit zones (see above), the Commission referred the case of criminalising activities in support of asylum to the CJEU.¹¹⁶ The court referral was preceded by a letter of formal notice sent to the Hungarian Government in July 2018, which the Government had failed to adequately address.

¹⁰⁷ See in English, HHC:

<https://www.helsinki.hu/wp-content/uploads/LexNGO-adopted-text-unofficial-ENG-14June2017.pdf>.

¹⁰⁸ See Venice Commission:

[https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2017\)015-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2017)015-e).

¹⁰⁹ See European Commission:

https://ec.europa.eu/commission/presscorner/detail/en/IP_17_1982.

¹¹⁰ See European Commission:

https://ec.europa.eu/commission/presscorner/detail/en/IP_17_5003.

¹¹¹ See WP2 Report pp. 21-22.; Gyollai and Korkut (2018):

<http://responders.crs.uu.se/2018/08/22/the-atmosphere-of-fear-taking-its-toll-in-hungary/>.

¹¹² See Venice Commission:

[https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2018\)013-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2018)013-e).

¹¹³ See Commission: https://ec.europa.eu/commission/presscorner/detail/en/IP_18_4522.

¹¹⁴ Act XLI. of 2018 Amending Certain Tax Laws and Other Related Acts and on the Special Immigration Tax

¹¹⁵ See Venice Commission:

[https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2018\)035-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2018)035-e).

¹¹⁶ See Commission: https://ec.europa.eu/commission/presscorner/detail/en/IP_19_4260.

One may find it difficult to follow the reports issued by the Venice Commission relating to immigration and asylum issues, and the infringement procedures launched, and the subsequent court procedures against Hungary. We have to underline that no measure or criticism has so far deterred the Hungarian Government from further developing what they call its illiberal state model affecting migration management as well. The ultimate question is, whether these procedures can wage an impact or not.

Each stakeholder we interviewed expressed concerns about the Government's freezing access to AMIF funds. As a consequence, NGOs are forced to be selective, refocus activities, cut down on expenses and search for alternative sources. Only a selection of NGOs has access to transit zones, the others are banned from both the zones and from reception centres. One of the NGOs we have been in touch had to move to a significantly smaller office and ask colleagues to work from home due to lack of funds. They can only carry on with their activities in support of refugees, if cooperate and share facilities with fellow NGOs. NGOs are shrinking and facing serious existential challenges due to the Government's explicit aversion against civil society. The Government provides financial support and access to transit zones only for the members of its own Charity Council (Karitatív Tanács) including Catholic Caritas, Hungarian Reformed Church Aid, Hungarian Charity Service of the Order Malta, Hungarian Interchurch Aid, Hungarian Baptist Aid and the Hungarian Red Cross.¹¹⁷ However, it is not precisely clear what services and at what regularity these organisations provide in the zones as per our interviewees. Conversely, as of June 2017, as one of the most established and internationally recognised Hungarian NGOs, HHC was banned from all detention and reception facilities nationwide. The cooperation agreements between HHC and IAO, National Police Headquarters and the National Penitentiary Headquarters to monitor the rights of individuals detained or confined in such facilities were unilaterally terminated.¹¹⁸ Although HHC as organisation was thus banned from entering the transit zones, through its lawyers, the NGO remains the only organisation that provides effective legal aid for asylum seekers in Hungary.¹¹⁹ This was corroborated by our micro-level interviewees.¹²⁰

Civil society organisations would have (and have had) crucial role in reception. In the micro-level interviews, almost all our participants mention the invaluable support they received from members of NGOs both in reception centres and upon acceptance, among others from Artemisszió, HHC, Menedék, Cordelia, Kalumba, Hungarian Baptist Aid, Hungarian Charity Service of the Order Malta.¹²¹ According to our interviewees, NGOs in general were proved to be more helpful than the authorities.¹²²

¹¹⁷ See FRA: <https://fra.europa.eu/en/theme/asylum-migration-borders/overviews/sept-2017>; https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-february-migration-report-focus-five-challenges_en.pdf; AIDA p.100: <https://www.asylumineurope.org/reports/country/hungary>; HHC: http://www.helsinki.hu/wp-content/uploads/helsinki_adatkeres_karitativ_tanacs.pdf.

¹¹⁸ See HHC (2017a): <https://www.helsinki.hu/wp-content/uploads/termination-of-agreements-summary.pdf>.

¹¹⁹ See Magyar Narancs: <https://magyarnarancs.hu/belpol/kontenerek-es-paragrafusok-113413/?orderdir=novekvo>; HHC (2018) p. 11.

¹²⁰ Interview code: HUN16; HUN2.

¹²¹ Interview code: HUN2; HUN4; HUN10; HUN9; HUN6, HUN7; HUN19; HUN17

¹²² Interview code: HUN4.

Experienced “welcome culture”

The Hungarian Government’s attempts to generate an audience for its agenda have been successful given how a significant proportion of the Hungarian public has identified with the government’s narratives of exclusion. There is an increasing level of intolerance and public hatred against foreigners.¹²³ During our field visits to Hungary, we conducted interviews with various stakeholders involved in the implementation of refugee protection, reception and integration policies. We have found that these organisations face serious obstacles to their efforts to support refugees as a result of the government’s anti-immigrant campaign. Almost all of our interviewees, including representative of IOM Hungary, raised concerns about the increasing racial and ethnic discrimination against refugees in the Hungarian society. Members of NGOs and charities responsible for housing have been experiencing suspicion and aversion, and, in most cases, rejection by landlords when organising accommodation for already recognised refugees leaving the reception centres.¹²⁴ Even if these organisations cover both the deposit and the rent, they sometimes had to make 10 attempts to secure a lease. According to one of our meso-level interviewees, a co-organiser of the “Migration Information Desk” at the Council of Budapest to provide assistance with public administration for immigrants living in Budapest, there is a certain degree of institutional racism in the public sector. The interviewee recited how he himself was discriminated by his own colleagues at the council on one occasion when assisting a client with immigrant background. To demonstrate the direct link between the government’s campaign and the increasing xenophobia, Artemisszió shared a story of a long-resident refugee, who suffered severe physical abuse by his fellow villagers with whom he had otherwise maintained a good relationship prior to the billboard campaign. The asylum seekers we have interviewed corroborated the accounts of public intolerance, and explained how difficult it is for them to socialise with locals due to the government’s anti-immigrant stance and campaigns:

“Actually, before it wasn’t affecting too much, but it all came when the government started like... Doing this propaganda, saying migrants are bad, asylum seekers want to take away Hungarian jobs... Then, it’s all during that time when everything started to change a bit, people’s reactions towards us started to change a bit, to shift. Before people were very friendly and then, right now, I could say that some people are drawing that line between us and them. They don’t want to be friendly, they see us as a negative influence to people...”¹²⁵

“In Budapest people aren’t that friendly, I don’t even have a good friend in Hungary...It is impossible to communicate with people over 35-40, because they hate that we live here. They ask ‘why did you come here?’ Younger people are more open. In my working place I was told not to tell customers that I am from Afghanistan, and it would be better to say I am from Spain or something like that, but I am from Afghanistan, it is my identity”¹²⁶

“People suffer (...) because of the government and the media.”¹²⁷

¹²³ See WP2 report p23.

¹²⁴ Interview code: HUNME10.

¹²⁵ Interview code: HUN12.

¹²⁶ Interview code: HUN10.

¹²⁷ MGN meeting.

“...but all the place I go where say I'm refugee the first thing that I am saying but the people they are good but some places but there was not the centre city it was different far away from centre city they got crazy they stop the bus the next station they kicked me off I swear God they said get off the bus I was like get off like it was far but I was shocked for.”¹²⁸

“...in the Hungarian National Bank I can't open an account, because they say "You are from Iran and Iran is (...)" . They don't care...many things are closed for us (...) it's very difficult for me and for all the refugees, because it's really... It's bad (...) the TV to refugees and everytime is propaganda. No one wants to rent the flat for refugees and I found it really difficult one flat, now I live there for three years, I don't want to live there (laughter). I can't find... They don't believe, they don't trust us... Many people, because of the propaganda on the TV.”¹²⁹

Wages paid for refugees are way below average, workplace exploitation is not uncommon.¹³⁰ One of our interviewees mentioned that she has been regularly tasked with physically overwhelming duties outside her job description. Because of language barriers, however, she was unable to raise these issues.¹³¹ Others found the working conditions discriminative and humiliating:

“In my working place people shows they like you, but they want to use you. My colleagues like kidding with me, but if I do so, they get offended immediately. Every Hungarian has holiday, except us, the Asians, who work in the kitchen. We hardly have day off and we work a lot. Just look at my hands. [His hands were totally dry: they were overused.]”¹³²

One of our interviewees found it difficult to communicate with the locals, because the vast majority of the Hungarians, apart from Budapest, do not speak the English language.¹³³ Upon being granted status, it took 6 months to another participant to find accommodation in Budapest as no one was willing to rent him any property.¹³⁴ Yet another asylum seeker, upon acceptance, had already agreed the purchase of different properties with 15 different owners who eventually all pulled out of the deal.¹³⁵ As HHC notes, according to Menedék, many schools are reluctant to receive asylum seeker children because local parents would disagree with the idea of their children sharing classes with foreigners. Some schools accept asylum seeking children in segregated classes only, without a meaningful pedagogical programme and only for 2 hours a day; as opposed to local children, who spend 5-7 hours in school per day.¹³⁶

¹²⁸ Interview code: HUN14.

¹²⁹ Interview code: HUN19.

¹³⁰ Interview code: HUN20.

¹³¹ Interview code: HUN.

¹³² Interview code: HUN10.

¹³³ Interview code: HUN17.

¹³⁴ MGN meeting.

¹³⁵ MGN meeting.

¹³⁶ See AIDA (2018) p. 77.

Conclusion: Challenges, prospects and policy recommendations

Reiterating our findings in the earlier border management and migration control report on Hungary, this report also reaches pessimistic conclusions regarding prospects and challenges. Moreover, it is impossible to suggest any policy recommendation to the Hungarian government, given its centralised and unaccountable control over the migration policy in general and reception policy in particular. We are hopeful that this report will raise attention to the Hungarian case internationally, affecting the current infringement procedures.

However, the most recent judgement of the Grand Chamber of the European Court of Human Rights granting a wide margin of appreciation to Hungary of its right to control its borders is disheartening and generally fails our expectations from the international community to hold the Hungarian government accountable for inhuman treatment of asylum-seekers. Despite the alarming report of the United Nations Working Group on Arbitrary Detention categorising Hungary's policy of holding asylum seekers in the transit zones, a deprivation of liberty under international law; the judgement of the Grand Chamber on 21 November 2019 established the right of the Hungarian government to control its control borders. However, the infringement proceedings initiated earlier by the EC, the first-instance judgement of the ECtHR in *Ilias and Ahmed v. Hungary*, and flagrant criticism of international organisations has forced the Hungarian Government to look for other ways in pursuit of its asylum policy. Hence, the Government has adopted certain security practices, the responsibility for which could not be attributed to Hungary, and externalised its securitisation policy through bilateral cooperation with neighbouring Serbia to informally control irregular arrivals extraterritorially.

To conclude, we once again indicate that Hungarian government operates its migration management and effectively reception policies amidst a full lack of accountability measures. The Hungarian government since being elected to office in 2010 unleashed an attack on independent agencies of checks and balances. The trend has started with curbing the influence of the courts. It continued with attacks on the civil society groups. Finally, given EU's reticence and slowness to act on the infringement procedures, the Hungarian government is feeling that the international accountability procedures are also becoming limited. This goes to the importance of accountability procedures in political systems to make sure that checks and balances work properly to control unaccountable acts that political leaders and governments would follow otherwise. The government discourse has monopolised migration policy so extensively that any opposition to its policies is branded as treason against the nation and Christianity. We wish to underline this as the most important policy finding in this report insomuch as refugee matters are too delicate to be left into the hands of the government agencies devoid of independent oversight from domestic and international humanitarian agencies.

Policy Recommendations

Any policy recommendation based on the current reception system should consider the audience that these recommendations would target. We believe that in the Hungarian case there are three possible audiences. These are namely the Hungarian government, the NGOs, and the EU institutions.

While we are not too optimistic regarding the impact of our policy recommendations on the Hungarian government, our starting point is Hungary's international obligations and responsibilities under European Union law. The Hungarian government should safeguard complete adherence to its international obligations and the oversight of its respective authorities. Adherence also implies accountability and transparency. At the moment, the Hungarian reception centres, that is, the transit zones are beyond the supervision of both domestic and international humanitarian agencies. In order to live up to the statements that the Hungarian government is not failing to deliver its international human rights obligations, the independent oversight mechanisms should be established. The best way to do this is by providing access to independent humanitarian actors and international agencies including the UN agencies.

This brings us to the role that humanitarian organisations should assume in this inhospitable environment. What we witnessed during our field work in Hungary was complete resignation in the humanitarian sector. We have seen that many are fighting for survival, face financial insecurity, and even changed their scope of work. However, they have to be mindful of their rights and not give up on the fact that Hungary is a democratic EU member state. The atmosphere of fear has been discouraging for many, but this environment should not subdue the humanitarian sector fully. These agencies at the same time should be more forthcoming with their rights and not let the governmental authority encroach fully in their work and affect their enthusiasm.

However, in order for humanitarian agencies to enjoy much deserved stability and support, the EU should also make sure that Hungarian government is held accountable. So far it has been the European Parliament that took a stance against Hungary. Recently, EPP is showing its teeth against Fidesz. However, what we need is the European Council coming more to fore and becoming responsive to the demands of the EP as well as independent oversight agencies. They need to take the infringement process seriously and not let this affected by political and national interests in the Council.

APPENDICES: OVERVIEW OF THE LEGAL FRAMEWORK ON RECEPTION

| Legislation title (original / English) and number | Type of law | Link |
|--|-------------|---|
| 39/2016. (XII. 29.) BM utasítás a Bevándorlási és Menekültügyi Hivatal szervezeti és működési rendjének meghatározásáról / Ministry of Interior's Order No. 39/2016. (XII. 29.) on the Institutional and Operational Structure of the IAO | Order | https://net.jogtar.hu/getpdf?docid=A16U0039.BM&targetdate=20170102&printTitle=39/2016.+28XII.+29.%29+BM+utas%C3%ADt%C3%A1s&referer=http%3A//net.jogtar.hu/jr/gen/hjegy_doc.cgi%3Fdocid%3D00000001.TXT . |
| 2012. évi C törvény a Büntető Törvénykönyvről / Act C of 2012 on the Criminal Code | Act | https://net.jogtar.hu/jogszabaly?docid=A1200100.TV . |
| 2007. évi LXXX. törvény a menedéjogról / Act LXXX of 2007 on Asylum | Act | https://net.jogtar.hu/jogszabaly?docid=A0700080.TV . |
| 301/2007. (XI. 9.) Korm. rendelet a menedéjogról szóló 2007. évi LXXX. törvény végrehajtásáról / Government Decree 301/2007 (XI. 9.) on the implementation of Act LXXX of 2007 on Asylum | Decree | https://net.jogtar.hu/jogszabaly?docid=A0700301.KOR . |
| 2007. évi LXXXIX. törvény az államhatárról / Act LXXXIX. of 2007 on the State Border | Act | https://net.jogtar.hu/jogszabaly?docid=A0700089.TV . |
| 1994 évi XXXIV. törvény a Rendőrségről / Act XXXIV. of 1994 on the Police | Act | https://net.jogtar.hu/jogszabaly?docid=99400034.TV . |
| 2011. évi CXIII. törvény a honvédelemről és a Magyar Honvédségről, valamint a különleges jogrendben bevezethető intézkedésekről / Act CXIII of 2011 on National Defence and Hungarian Defence Forces, and Measures Adoptable during State of Emergency as amended by Act CXLII of 2015 | Act | https://net.jogtar.hu/jogszabaly?docid=A1100113.TV . |
| 25/2015 (IX. 14.) BM-HM együttes utasítás a Magyar Honvédségnek a rendőrségi feladatok ellátásában történő közreműködése rendjéről / Ministry of Interior and Ministry of Defence Joint Order No. 25/2015 (IX. 14.) on the Armed Forces' Participation in Policing Duties | Order | https://net.jogtar.hu/jogszabaly?docid=A15U0025.BM&getdoc=1 . |

| | | |
|--|----------|---|
| 1401/2015 (VI. 17.) Korm. határozat a rendkívüli bevándorlási nyomás kezelése érdekében szükséges egyes intézkedésekről Gov. Decision No. 1401/2015 (VI. 17.) on the measures necessary to handle the extraordinary migratory pressure | Decision | https://net.jogtar.hu/jogszabaly?docid=A15H1401.KOR&getdoc=1 . |
| 2018 évi XLI. törvény az egyes adótörvények és más kapcsolódó törvények módosításáról, valamint a bevándorlási különadóról / Act XLI. of 2018 Amending Certain Tax Laws and Other Related Acts and on the Special Immigration Tax | Act | https://net.jogtar.hu/jogszabaly?docid=A1800041.TV&timeshift=ffffff4&xtreferer=00000001.TXT . https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2018)059-e (EN) |
| 52/2007 (XII. 11.) IRM rendelet a menekültügy szervezeti rendszeréről / Ministry of Justice Decree No. 52/2007 (XII. 11) on the Institutional Structure of the Asylum System | Decree | https://net.jogtar.hu/jogszabaly?docid=A0700052.IRM . |
| 2017. évi LXXVI. törvény a külföldről támogatott szervezetek átláthatóságáról / Act LXXVI of 2017 on the Transparency of Organisations Receiving Foreign Funds, | Act | https://www.google.com/search?q=2017+evi+LXXVI&oq=2017+evi+LXXVI&aqs=chrome..69i57.6799j0j7&sourceid=chrome&ie=UTF-8 https://www.helsinki.hu/wp-content/uploads/LexNGO-adopted-text-unofficial-ENG-14June2017.pdf (EN) |
| 2015. évi XLII. törvény a rendvédelmi feladatokat ellátó szervek hivatásos állományának szolgálati jogviszonyáról / Act XLII of 2015 on the Service Status of Professional Members of Law Enforcement Agencies | Act | https://net.jogtar.hu/jogszabaly?docid=a1500042.tv |
| 126/2019. (V. 30.) Korm. rendelet az idegenrendészeti szerv kijelöléséről és hatásköréről / Gov. Decree No. 126/2019 (V. 30.) on the assignment and jurisdiction of the immigration control authority | Decree | https://net.jogtar.hu/jogszabaly?docid=A1900126.KOR |
| 239/2009. (X. 20.) Korm. rendelet a szálláshely-szolgáltatási tevékenység folytatásának részletes feltételeiről és a szálláshely-üzemeltetési engedély kiadásának rendjéről / Gov. Decree No. 239/2009 on the detailed conditions of providing continuous shelter-service activity and the rules on the issuance of the permissions to operate a shelter | Decree | https://net.jogtar.hu/jogszabaly?docid=a0900239.kor . |

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